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CRP No. 1732 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

CRP No. 1732 of 2023

N. Arunachalam

S/o.Late Narayanan, No.14/A Hig Flat,
2nd Main Road, Nolambur, Chennai.

Petitioner(s)

Vs

P. Simachalam

S/o.late Pachiappa Naicker, Old NO.77,
New No.143, Pillaiyar Koil St, Avadi,
Chennai 54.

Respondent(s)

PRAYER

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order dated 15.02.2023 in I.A.No.71 of 2022 in restoring the I.A.No.151 of 2019 in A.S.No.37 of 2014 on the file of the Subordinate Court at Poonamallee.

For Petitioner(s): A.Balasingh Ramanujam



For Respondent(s): S. Murugan
For Sole Respondent

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ORDER

This petition has been filed to set aside the order dated 15.02.2023 in I.A.No.71 of 2022 in restoring I.A.No.151 of 2019 in A.S.No.37 of 2014 on the file of the Subordinate Court at Poonamallee.

2. The revision petitioner is the defendant in O.S.No.560 of 2006. The suit was originally filed for bare injunction, which was decreed against the defendant. Aggrieved by the judgement and decree, the defendant preferred an appeal in A.S.No.37 of 2014. However, after six adjournments, the appeal was dismissed for default on 04.03.2019 due to the defendant's lack of readiness to argue the case. Subsequently, the defendant filed an application in I.A.No.151 of 2019 under Order IX Rule 9 of CPC r/w Section 151 of CPC, seeking restoration of A.S.No.37 of 2014. This application was posted for hearing, but due to lack of representation from 12.02.2021 onwards, it was dismissed for default on 11.07.2022. The defendant then filed I.A.No.71 of 2022 to restore I.A.No.151 of 2019, which was dismissed by the First Appellate Court on 15.02.2023, citing the defendant's lackadaisical approach. Challenging the said order, the present Civil Revision Petition has been filed.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.



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4. Learned counsel for the Revision Petitioner / defendant would contend that it is a good case to succeed, if the appeal is restored.

5. Per contra, the learned counsel for the sole respondent / plaintiff would contend that the revision petitioner has shown no interest in proceeding with the case ever since 2006, instead protracting the proceedings. Therefore, he would submit that the order passed by the First Appellate Court is in accordance with law.

6. Admittedly, the revision petitioner had filed I.A.No.151 of 2019 to restore A.S.No.37 of 2014, which was dismissed for default on 04.03.2019. When the said application was posted for hearing the arguments of the defendant on 12.02.2021, there was no representation for the revision petitioner and subsequently no representation on several hearings, leading to dismissal for default on 11.07.2022. The only claim made by the revision petitioner is that if an opportunity is given to him, he would demonstrate the case before the Appellate Court.

7. Though there is a delay with no proper explanation, this Court is inclined to provide a last opportunity to the revision petitioner by allowing this Civil Revision Petition on condition to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Secretary, District Legal Service Authority, Poonamallee,



on or before 30.04.2025. Thereby, the order made in I.A.No.71 of 2022 dated 15.02.2023 is set aside. Since the original suit is of the year 2006 and the appeal is of the year 2014, the First Appellate Court is directed to conclude the appeal proceedings within a period of (6) months from the date of receipt of a copy of this order. Accordingly, this Civil Revision Petition stands allowed. No Costs.

17-04-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

Anu

To

1.The Subordinate Court, Poonamallee

2.The Secretary, District Legal Services Authority,
Poonamallee.



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N.SENTHILKUMAR J.

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